

Message Text

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ACTION IO-14

INFO OCT-01 ISO-00 CIAE-00 CU-04 INR-07 NSAE-00 AID-05
USIA-06 DIWY-01 L-03 AF-10 ARA-10 EA-07 EUR-12
NEA-10 DHA-02 HEW-04 SP-02 IOE-00 /098 W
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P R 171616Z AUG 77
FM AMEMBASSY PARIS
TO SECSTATE WASHDC PRIORITY 7196
INFO USMISSION USUN
USMISSION GENEVA

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NESCO

E.O. 11652: N/A
TAGS: AORG, OCON, SHUM, UNESCO
SUBJECT: UNESCO: EXECUTIVE BOARD WORKING GROUP TO
STRENGTHEN UNESCO'S HUMAN RIGHTS PROCEDURES,
PARIS, AUGUST 1-5, 1977

REF: PARIS 23640

1. FOLLOWING FOR DEPARTMENT'S INFORMATION AND COMMENTS
IS DRAFT TEXT OF PART II OF SUBJECT WORKING GROUP
REPORT MENTIONED IN PARA 4 OF REFTEL.

2. DEPARTMENT'S ATTENTION IS CALLED TO THE FACT THAT
THIS PARTICULAR TEXT HAS NOT REPEAT NOT YET BEEN
APPROVED BY THE WG AND SHOULD BE TREATED AS AN INFORMAL
DOCUMENT. AS STATED IN REFTEL, IT WILL BE SUBMITTED FOR
APPROVAL BY WG MEETING JUST PRIOR TO 103 EXBD SESSION
NEXT MONTH.

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II - POINT OF AGREEMENT AND DIVERGENCE.

IN THIS PART OF THE WORKING PARTY'S REPORT, THE MAIN
POINTS OF AGREEMENT AND DIVERGENCE ARE SET OUT IN
SUMMARY FORM.

POINTS OF DIVERGENCE ARE QUALIFIED AS ISSUES THAT REMAIN OPEN OR WHICH HAVE NOT BEEN SETTLED: IN THIS CASE REFERENCE IS MADE TO THE CORRESPONDING PARAGRAPHS IN PART I OF THE REPORT, IN WHICH THE STANDPOINTS ADOPTED BY MEMBERS OF THE WORKING PARTY ARE DESCRIBED.

1. UNESCO IS COMPETENT AS REGARDS HUMAN RIGHTS. ITS PURPOSE AND COMPETENCE ARE GROUNDED IN THE CONSTITUTION OF THE ORGANIZATION, WHICH WAS CREATED "... IN ORDER TO FURTHER UNIVERSAL RESPECT FOR JUSTICE, FOR THE RULE OF LAW AND FOR THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHICH ARE AFFIRMED FOR THE PEOPLES OF THE WORLD, WITHOUT DISTINCTION OF RACE, SEX, LANGUAGE OR RELIGION, BY THE CHARTER OF THE UNITED NATIONS.

2. IN ITS WORK IN THIS AREA, UNESCO IS BOUND TO TAKE ACCOUNT OF THE PROVISIONS OF ARTICLE 1, PARAGRAPH 3, OF ITS CONSTITUTION, UNDER THE TERMS OF WHICH IT MUST REFRAIN FROM ANY INTERVENTION IN THE DOMESTIC AFFAIRS OF MEMBER STATES: CONSEQUENTLY, UNESCO IS NOT, AND CANNOT BE, AN INTERNATIONAL JUDICIARY AUTHORITY.

3. THE QUESTIONS, SITUATIONS AND CASES WHICH MIGHT BE SUBMITTED TO UNESCO CONCERNING THE EXERCISE OF HUMAN RIGHTS IN THE SPHERES OF ITS COMPETENCE MAY BE REGARDED AS OBSTACLES STANDING IN THE WAY OF CO-OPERATION AND LIMITED OFFICIAL USE

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UNDERSTANDING BETWEEN NATIONS, WHICH REPRESENT THE PURPOSES ASSIGNED TO THE ORGANIZATION UNDER ITS CONSTITUTION. THEY MAY ALSO BE REGARDED AS ITEMS THAT MIGHT BE TAKEN INTO CONSIDERATION IN THE PREPARATION OF UNESCO'S PROGRAMME FOR THE PROMOTION OF RESPECT FOR HUMAN RIGHTS.

4. "CASE" IS UNDERSTOOD TO MEAN INDIVIDUAL CASE; "SITUATION", A CONSISTENT SET OF INDIVIDUAL CASES REVEALING SYSTEMATIC VIOLATION OF HUMAN RIGHTS; "QUESTION", A POLICY CONTRARY TO HUMAN RIGHTS APPLIED, DE JURE OR DE FACTO, BY A STATE.

5. QUESTIONS, SITUATIONS AND CASES DEEMED TO BE RECEIVABLE BY UNESCO SHOULD BE EXAMINED BY THE ORGANIZATION WITH THE GENERAL PURPOSE OF ASSISTING STATES, BY HELPING THEM TO OVERCOME SUCH OBSTACLES IN UNESCO'S SPHERES OF COMPETENCE BY CONSTANT DIALOGUE AND THE USE OF CONCILIATION AND GOOD OFFICES, SO AS TO PREVENT HUMAN RIGHTS - RESPECT FOR WHICH IS ONE OF THE PRE-REQUISITES FOR PEACE AMONG THE PEOPLES - FROM GIVING UNESCO

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P R 171626Z AUG 77
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TO SECSTATE WASHDC PRIORITY 7197
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RISE TO POLITICAL CLASHES BETWEEN MEMBER STATES.

6. THE ACTION TAKEN BY THE DIRECTOR-GENERAL IN THIS FIELD BY WAY OF HUMANITARIAN INTERCESSION IN CIRCUMSTANCES OF MUTUAL TRUST AND DISCRETION, CONSTITUTES A MAJOR ELEMENT IN ANY ENDEAVOUR TO ARRIVE AT A SETTLEMENT OF CASES, SITUATIONS AND QUESTIONS RELATING TO HUMAN RIGHTS THAT FALL WITHIN UNESCO'S COMPETENCE.

7. COMMUNICATIONS FROM PRIVATE PERSONS, NON-GOVERNMENTAL ORGANIZATIONS OR GROUPS OF INDIVIDUALS CLAIMING TO BE VICTIMS OF VIOLATIONS OF HUMAN RIGHTS FALLING WITHIN UNESCO'S COMPETENCE SHOULD BE CONSIDERED TO BE RECEIVABLE BY UNESCO. THE QUESTION WHETHER THE SAME SHOULD HOLD FOR COMMUNICATIONS NOT EMANATING FROM VICTIMS OF THE ALLEGED VIOLATIONS REMAINED OPEN (SEE PARAGRAPHS 21 TO 26, PART I).

8. TO BE CONSIDERED RECEIVABLE, COMMUNICATIONS SHOULD SATISFY THE FOLLOWING CONDITIONS:
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(I) THE COMMUNICATION MUST NOT BE ANONYMOUS;

(II) THE COMMUNICATION MUST NOT BE INCOMPATIBLE WITH THE FUNDAMENTAL PRINCIPLES OF THE ORGANIZATION, THE CHARTER OF THE UNITED NATIONS, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE OTHER INSTRUMENTS WHICH ARE APPLICABLE IN THE FIELD OF HUMAN RIGHTS;

(III) THE COMMUNICATION MUST NOT BE MANIFESTLY ILL-FOUNDED AND MUST CONTAIN ALLEGATIONS SUPPORTED BY EVIDENCE, WHICH IS, PRIMA FACIE, RELIABLE;

(IV) THE COMMUNICATION MUST NOT BE BASED EXCLUSIVELY ON NEWS DISSEMINATED BY MASS MEDIA;

(V) THE COMMUNICATION MUST NOT BE OFFENSIVE, NOR MUST IT BE AN ABUSE OF THE RIGHT TO SUBMIT COMMUNICATIONS;

(VI) THE COMMUNICATION MUST BE SUBMITTED WITHIN A REASONABLE TIME-LIMIT FOLLOWING THE FACTS WHICH CONSTITUTE ITS SUBJECT-MATTER;

(VII) THE COMMUNICATION MUST BE CONCERNED WITH THOSE HUMAN RIGHTS WHICH, PROCLAIMED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, CONSTITUTE THE GROUND OF UNESCO'S COMPETENCE IN THE FIELDS OF EDUCATION, SCIENCE, CULTURE AND COMMUNICATION.

THE QUESTION WHETHER, AND TO WHAT EXTENT, THE AUTHOR OF THE COMMUNICATION SHOULD EXHAUST THE REMEDIES AVAILABLE TO HIM BOTH AT THE NATIONAL AND AT THE REGIONAL LEVEL REMAINED OPENED (SEE PARAGRAPHS 32 TO 34 OF PART I).
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9. SOMEBODY SHOULD VERIFY THAT THE ABOVE CONDITIONS ARE SATISFIED. THIS RESPONSIBILITY MIGHT BE DISCHARGED BY THE DIRECTOR-GENERAL OR BY A WORKING PARTY OF THE EXECUTIVE BOARD, OR BY SOME OTHER BODY TO BE SET UP. THE CHOICE OF ONE OR OTHER OF THESE PROCEDURAL POSSIBILITIES REMAINED OPEN (SEE PARAGRAPHS 35 TO 38 OF PART I).

10. COMMUNICATIONS RELATING TO CASES AND SITUATIONS CONSIDERED TO BE RECEIVABLE SHOULD BE EXAMINED BY A COMPETENT BODY, WHICH MIGHT BE EITHER THE EXECUTIVE BOARD'S COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS OR

ANOTHER COMMITTEE OF THE EXECUTIVE BOARD OR, ALTERNATIVELY, A NEW BODY TO BE SET UP FOR THE PURPOSE BY THE GENERAL CONFERENCE.

11. THE COMPETENT BODY SHOULD ENDEAVOUR TO SETTLE THE PROBLEM RAISED BY THE COMMUNICATION BY AMICABLE AGREEMENT. FOR THIS PURPOSE, IT MAY TAKE ANY MEASURES IT MAY DEEM USEFUL, AND, IN PARTICULAR, MAY SEND A MISSION TO THE STATE CONCERNED IN THE CASE OF SYSTEMATIC AND MASSIVE VIOLATIONS.

12. SHOULD ITS EFFORTS TO BRING ABOUT AN AMICABLE SETTLEMENT PROVE UNSUCCESSFUL, THE COMPETENT BODY WILL COMMUNICATE THE FACTS UPON WHICH THE COMMUNICATION IS BASED TO THE EXECUTIVE BOARD, WHICH WILL TAKE SUCH ACTION AS IT MAY CONSIDER APPROPRIATE.

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13. SHOULD A SUBSTANTIAL NUMBER OF COMMUNICATIONS CONSIDERED RECEIVABLE CONCERN THE SAME MEMBER STATE, AND REVEAL SYSTEMATIC VIOLATION OF HUMAN RIGHTS, THE COMPETENT BODY WILL REFER THE MATTER TO THE EXECUTIVE BOARD, WHICH WILL EXAMINE IT AS BEING A SITUATION RELATING TO HUMAN RIGHTS.

14. THE EXECUTIVE BOARD WILL EXAMINE IN PRIVATE MEETING SUCH QUESTIONS RELATING TO HUMAN RIGHTS AS MAY BE REFERRED TO IT EITHER BY THE COMPETENT BODY OR BY A MEMBER STATE. IT WILL ENDEAVOUR TO SETTLE THE PROBLEMS THAT HAVE THUS ARISEN BY AMICABLE AGREEMENT. THE EXECUTIVE BOARD WILL EXAMINE QUESTIONS (SITUATIONS) RELATING TO HUMAN RIGHTS IN THE SAME CIRCUMSTANCES; IT MAY REFER THESE TO THE GENERAL CONFERENCE.

15. AT EACH SESSION OF THE EXECUTIVE BOARD, THE COMPETENT BODY WILL SUBMIT A REPORT ON ITS ACTIVITIES. THIS REPORT WILL BE MADE PUBLIC. THE EXACT CONTENT LIMITED OFFICIAL USE

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OF THE REPORT WAS NOT DETERMINED. END QUOTE.

3. PERMDEL WOULD APPRECIATE DEPARTMENT'S GUIDANCE ON ABOVE TEXT.
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Message Attributes

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